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In re Application of :
BRIGGS *et al* :
U.S. Application No.: 10/536,875 :
PCT No.: PCT/US03/37905 :
Int. Filing Date: 28 November 2003 :
Priority Date: 27 November 2002 :
Attorney Docket No.: 038136-5001-US :
For: PLANT PRODUCTION OF :
IMMUNOGLOBULINS WITH REDUCED :
FUCOSYLATION :

DECISION

This is a decision on matters before the United States Designated/Elected Office (DO/EO/US).

BACKGROUND

On 16 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee were required. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 16 May 2006, applicants mailed a response which included an executed declaration, the surcharge fee and a four-month extension of time.

On 20 July 2006, a Notification of Defective Response (Form PCT/DO/EO/916) was mailed indicating that the declaration did not comply with 37 CFR 1.497(a) and (b) because it was not properly executed. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905 with extensions, whichever was longer.

On 21 August 2006, applicant submitted a response to the Form PCT/DO/EO/916 requesting clarification on the defective declaration. Applicants also included a copy of the declaration previously submitted.

On 26 October 2006, the DO/EO/US mailed a second Form PCT/DO/EO/916 advising applicants again that the declaration was not properly executed. Applicants were given one month to respond, or any time remaining in the Form PCT/DO/EO/905

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with extensions, whichever was longer.

On 27 November 2006, applicants submitted a response which included a declaration executed by nine of the eleven named inventors and a petition under 37 CFR 1.47(a) for the two inventors whose signature were missing.

On 01 December 2006, applicants filed executed declarations for the two missing inventors.

On 11 January 2007, DO/EO/US mailed a Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) advising applicants that the 35 U.S.C. 371 requirements were satisfied on 01 December 2006.

DISCUSSION

The time period to respond to the Form PCT/DO/EO/905 mailed 16 November 2005 including all extensions of time expired 16 June 2006. The Form PCT/DO/EO/916 provides applicants an additional month to respond if the time period to reply to the Form PCT/DO/EO/905 had expired.

Here, a proper response to the Form PCT/DO/EO/916 mailed 20 July 2006 was to provide a declaration in compliance with 37 CFR 1.497(a) and (b) within one month. However, applicants failed to provide such a response.

Instead, applicants submitted a copy of the declaration previously submitted and a request for clarification of which declaration was not in compliance.

This was not a sufficient response.

CONCLUSION

The above-captioned application is hereby **ABANDONED** for failing to provide an appropriate reply to the Form PCT/DO/EO/905 mailed 16 November 2005.

The Form PCT/DO/EO/916 mailed on 26 October 2006 was sent in error and is hereby **VACATED**.

The Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed 11 January 2007 is also **VACATED**.

The petition under 37 CFR 1.47(a) filed 27 November 2006 will not be discussed

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as the subject application was already abandoned.

If reconsideration on the merits of this decision is desired, a response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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